



POLICE DEPARTMENT
NEW YORK, N.Y. 10038
DEPUTY COMMISSIONER-TRIALS

July 14, 2016

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In the Matter of the Disciplinary Proceedings :
- against - : FINAL
Lieutenant Thomas Shalley : ORDER
Tax Registry No. 902404 : OF
Police Service Area 9 : DISMISSAL
-----X

Lieutenant Thomas Shalley, Tax Registry No. 902404, Social Security No. ending in [REDACTED], having been served with written notice, has been tried on written Charges and Specifications numbered 2014-12031, as set forth on form P.D. 468-121, dated June 26, 2014, and after a review of the entire record, has been found Guilty of all charges and specifications.

Now therefore, pursuant to the powers vested in me by Section 14-115 of the Administrative Code of the City of New York, I hereby DISMISS Lieutenant Thomas Shalley from the Police Service of the City of New York.


WILLIAM J. BRATTON
POLICE COMMISSIONER

EFFECTIVE: At 0001 Hrs on August 09, 2016.



POLICE DEPARTMENT

NEW YORK, N.Y. 10038

DEPUTY COMMISSIONER-TRIALS

-----X
In the Matter of the Charges and Specifications : Case No.

- against - : 2014-12031

Lieutenant Thomas Shalley :

Tax Registry No. 902404 :

Police Service Area 9 :
-----X

At: Police Headquarters
One Police Plaza
New York, New York 10038

Before: Honorable David S. Weisel
Assistant Deputy Commissioner Trials

APPEARANCE:

For the Department: Daniel Maurer, Esq.
Department Advocate's Office
One Police Plaza, 4th Floor
New York, NY 10038

For the Respondent: Eileen J. Goggin, Esq.
Law Office of Jeffrey L. Goldberg, P.C.
6 Harbor Park Drive
Port Washington, NY 11050

To:

HONORABLE WILLIAM J. BRATTON
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NEW YORK 10038

Charges and Specifications:

1. Said Lieutenant Thomas Shalley, assigned to the 69th Precinct, on or about June 24, 2014 and June 25, 2014, failed to obey the orders of Captain Norman Grandstaff and failed to comply with said Captain's written command policy and directive regarding supervisory requests for Lost Time.
P.G. 203-03, Page 1, Paragraph 2 – Compliance With Orders
2. Said Lieutenant Thomas Shalley, assigned to the 69th Precinct, on or about June 24, 2014 and June 25, 2014, was absent from two scheduled tours of duty without authorization.
P.G. 205-18 – Absent Without Leave
P.G. 203-10, Page 1, Paragraph 5 – General Regulations
3. Said Lieutenant Thomas Shalley, assigned to the 69th Precinct, on or about June 24, 2014 and June 25, 2014, made misleading and/or false statements to Sergeants Edward Quigg and Lauren Odessa regarding Captain Grandstaff's approval and/or knowledge of his Lost Time request(s).
P.G. 203-10, Page 1, Paragraph 5 – General Regulations
4. Said Lieutenant Thomas Shalley, assigned to the 69th Precinct, on or about June 25, 2014, wrongfully consumed an intoxicant to the extent that he was unfit for duty.
P.G. 203-04, Page 1, Paragraphs 1 & 2 – Fitness For Duty

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before the Court on May 3, 2016.

Respondent entered a plea of Guilty to the subject charges and testified in mitigation of the penalty. He also called Sergeant Edward Quigg, Hortensia Shalley and Peter Dermody as witnesses. A stenographic transcript of the mitigation record has been prepared and is available for the Police Commissioner's review.

DECISION

After reviewing the evidence presented at the hearing, assessing the credibility of the witnesses, and Respondent having pleaded Guilty to the charges, the Court finds Respondent Guilty.

FINDINGS AND ANALYSIS

Although the charges and specifications in this matter relate to a particular date and time, the broader case here really was about Respondent's [REDACTED] and how that has affected his otherwise long and distinguished career with the Department.

It was undisputed that Respondent has on the whole served the Department with distinction for nearly 24 years. He loves his job. He testified to his many assignments and several events that stood out as exemplary. These included apprehending the suspects in a carjacking in progress, a triple-murder suspect on the Lower East Side, and the suspects in a pattern bank robbery on the Upper East Side, for which the Police Commissioner received a letter of commendation in Respondent's merit from the Federal Bureau of Investigation. He had received several Department medals and commendations, some for the enforcement above (Tr. 10-14, 16-18, 29-31, 47-48; Respt. Ex. D, FBI letter).

Respondent and his wife Hortensia Shalley testified that he was devoted to his family and community. The Shalleys had two sons, both in their 20s. Respondent testified that he organized a 2014 charity hockey game to raise money for a friend that had been seriously injured in a car accident. Respondent had many financial responsibilities, like the mortgage on his house and his younger son's college tuition. Hortensia, a paper handler at a major daily newspaper, made \$25,000 a year (Tr. 18-22, 31, 44-47, 51; see Respt. Ex. C, flyer for charity event).

On the morning of September 11, 2001, Respondent testified, he was off duty but responded to the World Trade Center and arrived right after the fall of the north tower. He was there when 7 World Trade Center fell and ran for his life. He saw the dead bodies in the streets. He came to learn that two friends and his sister's husband, all firefighters, were killed. These events – "I am used to dealing with other people's tragedies, and that day they got me" – had a profound impact. He developed [REDACTED], [REDACTED] and

[REDACTED]. Respondent admitted that the Police Department ordered him to [REDACTED], but claimed not to recall the first time this occurred. When he attended [REDACTED] he [REDACTED]" but [REDACTED]. His [REDACTED]" was not much of a [REDACTED]. Respondent added that in prior years, [REDACTED]. He objected to the fact that he was sent for [REDACTED].

Specification No. 1 alleges that on June 24 through 25, 2014, Respondent failed to comply with Captain Norman Grandstaff's written policy for the 69 Precinct regarding lost time requests by supervisors. Respondent conceded that this policy was enacted partially due to his own excessive absenteeism, itself due to his [REDACTED]. Respondent admitted that when he asked for the day off on the dates in question, Grandstaff directed him to contact the desk, ascertain what the supervisory coverage was, and get back to him. Instead, Respondent admitted, he contacted a sergeant and stated that Grandstaff had approved the lost time. Respondent further admitted, with regard to Specification No. 2, that he made misrepresentations to another sergeant and was absent for two scheduled tours. Nevertheless, Sergeant Edward Quigg, one of the sergeants about whom Respondent pleaded Guilty to making misrepresentations regarding lost time approvals (Specification No. 3), testified that Respondent had a reputation as an experienced and hard-working lieutenant, respected by his coworkers and peers. In fact, Quigg attended the charity hockey game that Respondent organized (Tr. 24-25, 32-34, 39-41).

Respondent testified that as a result of the incidents in June 2014 for which he is charged here, he began [REDACTED]. He has been [REDACTED] since January 29, 2015, and on June 25, 2015, [REDACTED].

in June 2014. Recent changes to the [REDACTED] had made it a much better and more pleasurable experience for Respondent. He testified that his current [REDACTED], a New York City Fire Department Emergency Medical Technician, was effective. Respondent attended about three meetings a week and was getting [REDACTED] through a [REDACTED]. [REDACTED] He indicated that he would be successful this time because ~~"I stick to the~~ program. . . . I have been through my process, I made my mistakes." This time, he, his wife and Dermody all testified, was different. Dermody similarly testified that Respondent approached him in February 2015 and told him that he had [REDACTED] but was serious about [REDACTED] this time. Respondent currently was [REDACTED]. Dermody believed that Respondent was making positive progress [REDACTED], although of course there were no guarantees (Tr. 24-28, 31-34, 48-52, 54-64; Respt. Ex. B, CSU memorandum).

The Court concurs with the sentiments of the Department Advocate made on summation. There is no doubt that Respondent's service with the Department and dedication to his family are admirable. Like most adults, he has financial responsibilities and needs to work. In light of Respondent's pattern of conduct, however, the Department and this tribunal must do a risk assessment (Tr. 71).

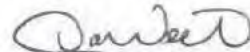
Respondent's work history with the Department, as well as his own testimony, indicate that this is far from the first time his [REDACTED] has caused serious problems for the Department. It is not the first time he lied to ranking supervisors to hide [REDACTED] and not the first time he was unfit for duty [REDACTED]. In fact, it is not the first time ranking supervisors had to respond to his residence only to find him [REDACTED]. After that incident, Respondent also was placed on dismissal probation and eventually returned to full duty, only to [REDACTED] and cause the current incident. At a certain point, the Department is entitled to tell such a problematic officer that he can no longer work here.

The tribunal does not doubt Respondent's sincerity or dedication. But it is undisputed that [REDACTED] is unpredictable. As Respondent [REDACTED] admitted, [REDACTED] is always a possibility, even when someone is doing everything right. In light of Respondent's past history, the Department cannot take that chance. For this reason, even the imposition of dismissal probation is inappropriate and will not protect the Department from Respondent's history of dangerous conduct.

The final plea offer to Respondent, as directed by the Police Commissioner, was the forfeiture of the 32 days previously served on suspension in this matter, an additional 13 vacation days for a total of 45 penalty days, placement on one year of dismissal probation, [REDACTED], the forfeiture of all time and leave balances, including terminal leave if any, and the immediate filing for service retirement while on modified assignment (Tr. 4). This tribunal, however, cannot make this penalty recommendation, see Administrative Code § 14-115 (a). Therefore, the Court recommends that Respondent be **DISMISSED** from employment with the Department.

In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Educ., 34 N.Y.2d 222, 240 (1974). Respondent was appointed to the Department on June 30, 1992. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

Respectfully submitted,



David S. Weisel
Assistant Deputy Commissioner Trials

APPROVED

AUG 09 2016

WILLIAM J. BRATTON
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
LIEUTENANT THOMAS SHALLEY
TAX REGISTRY NO. 902404
DISCIPLINARY CASE NO. 2014-12031

Respondent's last three annual performance evaluations were as follows: in 2015 and 2013, he received an overall rating of 4.0 "Highly Competent," and in 2012 he received an overall rating of 4.5 "Extremely Competent/Highly Competent." He has been awarded 15 medals for Excellent Police Duty, two medals for Meritorious Police Duty, one Commendation, and one medal for Exceptional Merit. [REDACTED]

Respondent has one prior formal disciplinary adjudication. In 2012, Respondent pleaded guilty and negotiated a penalty of [REDACTED], one-year dismissal probation and 25 vacation days for, while off-duty, [REDACTED] to the point where he was unfit for duty, and as a result, being absent from a scheduled Trafficstat meeting. He was incoherent and confused on the phone, and later was observed carrying [REDACTED] back to his residence. Respondent was a probationary Captain at the time of the incident and was demoted to the rank of Lieutenant as a result.

Respondent was suspended from duty from June 25, 2014, to July 26, 2014, as a result of the charges and specifications in the instant case. Beginning August 29, 2014, he was placed on Level II Disciplinary Monitoring, also as a result of the instant case, and this remains ongoing.

David S. Weisel
Assistant Deputy Commissioner Trials